

AMENDED IN ASSEMBLY JUNE 20, 2016

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1250**

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**Introduced by Senator McGuire**  
**(Coauthors: Senators Hill, Nielsen, Hill and Wolk)**  
(Coauthor: Assembly Member Cooley)

February 18, 2016

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An act to amend Section 710 of, to amend and renumber Section 2889.8 of, and to add Sections 911.5 and 2882.5 to, the Public Utilities Code, relating to telecommunications, add Section 53119.5 to the Government Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as amended, McGuire. Telecommunications: ~~major rural outages: notifications and reporting. Warren-911-Emergency Assistance Act: notification of rural outages.~~

*Existing provisions of the Warren-911-Emergency Assistance Act, establishes the number "911" as the primary emergency telephone number for use in the state and requires the providing of enhanced service capable of selective routing, automatic number identification, or automatic location identification. The act requires a telephone corporation serving rural telephone areas that cannot provide enhanced 911 emergency telephone service capable of selective routing, automatic number identification, or automatic location identification to present to the Office of Emergency Services a comprehensive plan detailing a schedule by which their facilities will be converted to be compatible with the enhanced emergency telephone system.*

*This bill would require a facilities-based provider of telecommunications services that the Federal Communications*

*Commission requires to provide access to 911 service to provide responder outage notification by email to the Office of Emergency Services whenever there is a rural outage, as defined, within 60 minutes of discovering the rural outage. The bill would make the Office of Emergency Services responsible for notifying any applicable county office of emergency services and the sheriff of any county affected by the outage. The bill would require the responder outage notification to the Office of Emergency Services to include the telecommunications provider's contact name and calling number with a description of the estimated area affected by the outage. The bill would require the telecommunications services provider to notify the Office of Emergency Services of the estimated time to repair the outage and when service is restored. The bill would require that the telecommunications service provider ensure that the calling number provided to the Office of Emergency Services with the responder outage notification be staffed by the indicated contact person, or by a person qualified to respond to inquiries about the outage, at all times until the provider notifies the office that service has been restored.*

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to periodically assess the reliability of the public telecommunications network and, if necessary, to develop recommendations for improvement. The assessment is required to include (1) an analysis of those factors that pose a risk to network reliability, including the adequacy of independent sources of reserve power, (2) consideration as to whether development of reliability standards is appropriate, and (3) consideration as to whether procedures should be developed to notify customers about accessing other telecommunications companies in the event of a service disruption.~~

~~This bill would impose, on a facilities-based provider of telecommunications services that the Federal Communications Commission requires to provide access to 911 service, certain notification and reporting requirements for a major rural outage of telecommunications services, with the requirements to be adopted by the commission in consultation with the Office of Emergency Services. The bill would make these requirements enforceable through the Public Utilities Act. The bill would require the commission to annually report to the Legislature on certain information from reports filed with the commission and to include recommendations to improve the reporting of major rural outages and remedial actions that can be undertaken to~~

avoid or minimize outages. Because a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime, and the requirements added by the bill would be a part of, or enforceable pursuant to, the act and require actions by the commission for their implementation, the bill would impose a state-mandated local program by creating a new crime.

Existing law, until January 1, 2020, prohibits the commission from regulating Voice over Internet Protocol (VoIP) and Internet Protocol enabled service (IP-enabled service), as defined, except as required or delegated by federal law or expressly provided otherwise in statute.

This bill would expressly authorize the commission to implement the notification and reporting requirements for major rural outages with respect to facilities-based VoIP and IP-enabled service providers of telecommunications services that the Federal Communications Commission requires to provide access to 911 service.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason:

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~ *no*.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) This act shall be known, and may be cited,  
2 as the 911 Emergency Reliability and Public Safety Act.  
3 (b) The Legislature finds and declares all of the following:  
4 (1) ~~The Public Utilities Commission~~ *State of California* currently  
5 has no specific requirements with respect to the reporting of major  
6 service interruptions that impair the ability of persons to call and  
7 connect to the local emergency telephone system by dialing 911;  
8 ~~other than requiring facilities-based certificated and registered~~  
9 ~~public utility telephone corporations to report major service~~  
10 ~~interruptions as required by the Federal Communications~~  
11 ~~Commission's Network Outage Reporting System adopted by the~~  
12 ~~Public Utilities Commission in the Rules Governing~~  
13 ~~Telecommunications Services (General Order 133-C (effective~~  
14 ~~July 9, 2009), page 9): 911.~~

~~(2) The duty to report outages pursuant to the Network Outage Reporting System requirements is triggered upon surpassing either a duration or a user-minutes-affected threshold. That user-minutes-affected threshold is appropriate for urban areas. However, the user-minutes-affected threshold results in the nonreporting of major service interruptions in rural areas of California.~~

~~(3)~~

(2) The Federal Communications Commission has acknowledged that providing access to the 911 emergency call system includes maintaining the function of the communications networks required to initiate 911 calls and to deliver those calls and that there is a shared authority of the federal government and states to collectively oversee all components of 911 service.

~~(4)~~

(3) In order to protect the health and safety of persons living in rural areas of the state requiring reliable access to the 911 emergency call system, it is necessary ~~for the Public Utilities Commission to adopt more stringent~~ *to adopt* requirements for the reporting of major service interruptions in rural areas of the state.

~~(5) It is the intent of the Legislature that the commission utilize its existing authority under the Public Utilities Act, including the authority to impose fines and penalties for violations, to enforce the requirements of this act, and that any moneys collected through fines or penalties will be used first to offset the costs of implementing the requirements of the act, and if any moneys remain, toward eliminating the digital divide.~~

*SEC. 2. Section 53119.5 is added to the Government Code, to read:*

*53119.5. (a) For purposes of this section, the following terms have the following meanings:*

*(1) "Access to 911 service" means the ability of a person to call and connect to the local emergency telephone systems described in this article.*

*(2) "Outage" has the same meaning as defined by the Federal Communications Commission in Section 4.5 of Part 4 of Subchapter A of Chapter 1 of Title 47 of the Code of Federal Regulations.*

1     (3) “Rural county” means a county in California for which the  
2     United States Census Bureau has measured a population density  
3     of 600 or less per square mile.

4     (4) “Rural outage” means an outage of telecommunications  
5     service in a rural county over transport facilities, experienced by  
6     a facilities-based provider of telecommunications services that the  
7     Federal Communications Commission requires to provide access  
8     to 911 service, that persists more than one hour after discovery of  
9     the outage.

10    (5) “Telecommunications service” has the same meaning as  
11    defined in subdivision (a) of Section 2892.1 of the Public Utilities  
12    Code.

13    (6) “Transport facilities” are the components of a  
14    telecommunications service provider’s wireless or wireline  
15    infrastructure that connect network elements.

16    (b) All facilities-based providers of telecommunications services  
17    that the Federal Communications Commission requires to provide  
18    access to 911 service shall provide responder outage notification  
19    whenever there is a rural outage. Responder outage notification  
20    shall be provided within 60 minutes of discovery of the outage by  
21    the provider to the Office of Emergency Services, which shall be  
22    responsible for notifying any applicable county office of emergency  
23    services and the sheriff of any county affected by the outage. The  
24    responder outage notification to the Office of Emergency Services  
25    shall be by email, and shall include the telecommunications  
26    provider’s contact name and calling number and a description of  
27    the estimated area affected by the outage. The telecommunications  
28    services provider shall also notify the Office of Emergency Services  
29    by email of both of the following:

30    (1) The estimated time to repair the outage.

31    (2) When achieved, the restoration of service.

32    (c) The telecommunications service provider shall ensure that  
33    the calling number provided to the Office of Emergency Services  
34    with the responder outage notification is staffed by the indicated  
35    contact person, or by a person qualified to respond to inquiries  
36    about the outage, at all times until the provider notifies the office  
37    that service has been restored.

38    (d) Except as provided in subdivision (b), the Office of  
39    Emergency Services shall keep responder outage notifications  
40    confidential and shall not disclose the contents of the notifications.

1     ~~SEC. 2. Section 710 of the Public Utilities Code is amended~~  
2     ~~to read:~~

3     ~~710. (a) The commission shall not exercise regulatory~~  
4     ~~jurisdiction or control over Voice over Internet Protocol and~~  
5     ~~Internet Protocol-enabled services except as required or expressly~~  
6     ~~delegated by federal law or expressly directed to do so by statute~~  
7     ~~or as set forth in subdivision (c). In the event of a requirement or~~  
8     ~~a delegation referred to above, this section does not expand the~~  
9     ~~commission's jurisdiction beyond the scope of that requirement~~  
10    ~~or delegation.~~

11    ~~(b) No department, agency, commission, or political subdivision~~  
12    ~~of the state shall enact, adopt, or enforce any law, rule, regulation,~~  
13    ~~ordinance, standard, order, or other provision having the force or~~  
14    ~~effect of law, that regulates VoIP or other IP-enabled service, unless~~  
15    ~~required or expressly delegated by federal law or expressly~~  
16    ~~authorized by statute or pursuant to subdivision (c). In the event~~  
17    ~~of a requirement or a delegation referred to above, this section~~  
18    ~~does not expand the commission's jurisdiction beyond the scope~~  
19    ~~of that requirement or delegation.~~

20    ~~(c) This section does not affect or supersede any of the~~  
21    ~~following:~~

22    ~~(1) The Emergency Telephone Users Surcharge Law (Part 20~~  
23    ~~(commencing with Section 41001) of Division 2 of the Revenue~~  
24    ~~and Taxation Code) and the state's universal service programs~~  
25    ~~(Section 285).~~

26    ~~(2) The Digital Infrastructure and Video Competition Act of~~  
27    ~~2006 (Division 2.5 (commencing with Section 5800)) or a franchise~~  
28    ~~granted by a local franchising entity, as those terms are defined in~~  
29    ~~Section 5830.~~

30    ~~(3) The commission's authority to implement and enforce~~  
31    ~~Sections 251 and 252 of the federal Communications Act of 1934,~~  
32    ~~as amended (47 U.S.C. Secs. 251 and 252).~~

33    ~~(4) The commission's authority to require data and other~~  
34    ~~information pursuant to Section 716.~~

35    ~~(5) The commission's authority to address or affect the~~  
36    ~~resolution of disputes regarding intercarrier compensation,~~  
37    ~~including for the exchange of traffic that originated, terminated,~~  
38    ~~or was translated at any point into Internet Protocol format.~~

39    ~~(6) The commission's authority to enforce existing requirements~~  
40    ~~regarding backup power systems established in Decision~~

1 10-01-026, adopted pursuant to Section 2892.1, and rural outage  
2 notification and reporting requirements adopted pursuant to Section  
3 2882.5.

4 (7) ~~The commission's authority relative to access to support~~  
5 ~~structures, including pole attachments, or to the construction and~~  
6 ~~maintenance of facilities pursuant to commission General Order~~  
7 ~~95 and General Order 128.~~

8 (8) ~~The Warren-911-Emergency Assistance Act (Article 6~~  
9 ~~(commencing with Section 53100) of Chapter 1.5 of Part 1 of~~  
10 ~~Division 2 of Title 5 of the Government Code).~~

11 (d) ~~This section does not affect the enforcement of any state or~~  
12 ~~federal criminal or civil law or any local ordinances of general~~  
13 ~~applicability, including, but not limited to, consumer protection~~  
14 ~~and unfair or deceptive trade practice laws or ordinances, that~~  
15 ~~apply to the conduct of business, the California Environmental~~  
16 ~~Quality Act (Division 13 (commencing with Section 21000) of~~  
17 ~~the Public Resources Code), local utility user taxes, and state and~~  
18 ~~local authority governing the use and management of the public~~  
19 ~~rights-of-way.~~

20 (e) ~~This section does not affect any existing regulation of,~~  
21 ~~proceedings governing, or existing commission authority over,~~  
22 ~~non-VoIP and other non-IP enabled wireline or wireless service,~~  
23 ~~including regulations governing universal service and the offering~~  
24 ~~of basic service and lifeline service, and any obligations to offer~~  
25 ~~basic service.~~

26 (f) ~~This section does not limit the commission's ability to~~  
27 ~~continue to monitor and discuss VoIP services, to track and report~~  
28 ~~to the Federal Communications Commission and the Legislature,~~  
29 ~~within its annual report to the Legislature, the number and type of~~  
30 ~~complaints received by the commission from customers, and to~~  
31 ~~respond informally to customer complaints, including providing~~  
32 ~~VoIP customers who contact the commission information regarding~~  
33 ~~available options under state and federal law for addressing~~  
34 ~~complaints.~~

35 (g) ~~This section does not affect the establishment or enforcement~~  
36 ~~of standards, requirements, or procedures, including procurement~~  
37 ~~policies, applicable to any department, agency, commission, or~~  
38 ~~political subdivision of the state, or to the employees, agents, or~~  
39 ~~contractors of a department, agency, commission, or political~~

1 subdivision of the state, relating to the protection of intellectual  
2 property.

3 (h) ~~This section shall remain in effect only until January 1, 2020,~~  
4 ~~and as of that date is repealed, unless a later enacted statute, that~~  
5 ~~is enacted before January 1, 2020, deletes or extends that date.~~

6 SEC. 3. ~~Section 911.5 is added to the Public Utilities Code, to~~  
7 ~~read:~~

8 911.5. ~~By February 1, 2018, and each February 1 thereafter,~~  
9 ~~the commission shall report to the Legislature summarizing major~~  
10 ~~rural outage information as reported to the commission pursuant~~  
11 ~~to Section 2882.5, including the number and duration of major~~  
12 ~~rural outages and the number of customers affected by those~~  
13 ~~outages. The report shall include any rules adopted by the~~  
14 ~~commission pursuant to subdivision (g) of Section 2882.5, any~~  
15 ~~recommendations to the Legislature as to changes that can be made~~  
16 ~~to further refine the requirements for reporting of major rural~~  
17 ~~outages, recommendations for remedial actions that can be~~  
18 ~~undertaken to avoid or minimize outages, any failures to comply~~  
19 ~~with the major rural outages reporting requirements, and any fines~~  
20 ~~imposed or other enforcement actions undertaken to enforce~~  
21 ~~Section 2882.5.~~

22 SEC. 4. ~~Section 2882.5 is added to the Public Utilities Code,~~  
23 ~~to read:~~

24 2882.5. (a) ~~For purposes of this section, the following terms~~  
25 ~~have the following meanings:~~

26 (1) ~~“Access to 911 service” means the ability of a person to call~~  
27 ~~and connect to the local emergency telephone systems described~~  
28 ~~in the Warren-911-Emergency Assistance Act (Article 6~~  
29 ~~(commencing with Section 53100) of Chapter 1 of Part 1 of~~  
30 ~~Division 2 of Title 5 of the Government Code).~~

31 (2) ~~“Major rural outage” means an outage of telecommunications~~  
32 ~~service in a rural area, experienced by a facilities-based provider~~  
33 ~~of telecommunications services that the Federal Communications~~  
34 ~~Commission requires to provide access to 911 service, that is both~~  
35 ~~of the following: (A) is of 30 or more minutes’ duration, and (B)~~  
36 ~~potentially affects 75,000 or more user-minutes. The number of~~  
37 ~~user-minutes is the mathematical result of multiplying the outage’s~~  
38 ~~duration expressed in minutes and the number of users potentially~~  
39 ~~affected by the outage.~~



1     ~~(3) “Outage” has the same meaning as defined by the Federal~~  
2     ~~Communications Commission in Section 4.5 of Part 4 of~~  
3     ~~Subchapter A of Chapter 1 of Title 47 of the Code of Federal~~  
4     ~~Regulations.~~

5     ~~(4) “Rural area” means those areas of the state that the United~~  
6     ~~States Census Bureau has determined are not within urbanized~~  
7     ~~areas or urban clusters.~~

8     ~~(5) “Telecommunications service” has the same meaning as~~  
9     ~~defined in subdivision (a) of Section 2892.1.~~

10    ~~(b) The enhanced notification and reporting requirements of~~  
11    ~~this section do not apply to those areas of the state that the~~  
12    ~~commission, utilizing United States Census Bureau determinations,~~  
13    ~~identifies as not being rural areas. Nothing in this section affects~~  
14    ~~the notification and reporting requirements adopted by the Federal~~  
15    ~~Communications Commission (Part 4 of Subchapter A of Chapter~~  
16    ~~1 of Title 47 of the Code of Federal Regulations) and the~~  
17    ~~commission’s Rules Governing Telecommunications Services~~  
18    ~~(General Order 133-C (effective July 9, 2009), pages 9-10, or any~~  
19    ~~successor rules adopted by the commission) as to those areas of~~  
20    ~~the state that the commission determines are not rural areas.~~

21    ~~(c) The commission, in consultation with the Office of~~  
22    ~~Emergency Services, shall require all facilities-based providers of~~  
23    ~~telecommunications services that the Federal Communications~~  
24    ~~Commission requires to provide access to 911 service to provide~~  
25    ~~responder outage notification whenever there is a major rural~~  
26    ~~outage. Responder outage notification shall be provided within 30~~  
27    ~~minutes of the outage to the Office of Emergency Services, which~~  
28    ~~shall be responsible for notifying any applicable county office of~~  
29    ~~emergency services and sheriff of any county affected by the~~  
30    ~~outage. The notification shall include the telecommunications~~  
31    ~~provider’s contact name and calling number, an assigned unique~~  
32    ~~report code that will be used to identify the outage for reporting~~  
33    ~~purposes, a description of the nature of the outage, a description~~  
34    ~~of the estimated area affected by the outage, and other information~~  
35    ~~that the telecommunications provider feels may be of assistance~~  
36    ~~to emergency first responders. The provider of telecommunications~~  
37    ~~services shall notify the commission upon its completion of~~  
38    ~~providing responder outage notification.~~

39    ~~(d) The commission, in consultation with the Office of~~  
40    ~~Emergency Services, shall require all facilities-based providers of~~

1 telecommunications services that the Federal Communications  
2 Commission requires to provide access to 911 service to provide  
3 public outage notification whenever there is a major rural outage.  
4 The commission shall adopt rules for the most effective and  
5 efficient means for dissemination of information to the public  
6 relative to outages. The rules shall require that a  
7 telecommunications provider that maintains an Internet Web site  
8 timely post information relative to an outage on its Internet Web  
9 site, including the area of the outage and, when available,  
10 alternative means to contact a public safety answering point in the  
11 event of an emergency arising during the outage. The commission  
12 may adopt additional requirements for outreach to be provided to  
13 customers during or following an outage and what information  
14 relative to public outage notification is to be provided to the  
15 commission.

16 (e) The commission, in consultation with the Office of  
17 Emergency Services, shall require all facilities-based providers of  
18 telecommunications services that the Federal Communications  
19 Commission requires to provide access to 911 service to provide  
20 initial outage reporting whenever there is a major rural outage.  
21 Initial outage reporting shall be provided within 120 minutes of  
22 the outage to the Office of Emergency Services, which shall be  
23 responsible for notifying any applicable county office of emergency  
24 services and sheriff of any county affected by the outage. The  
25 initial outage report shall, at a minimum, include a description of  
26 the direct cause or general nature of the outage and identify the  
27 date and time of the incident causing the outage, the unique report  
28 code provided pursuant to subdivision (c), the location of the  
29 incident or cause, the geographic range and number of potentially  
30 affected customers, and, if the outage has not been rectified, the  
31 expected duration of the outage. The provider of  
32 telecommunications services shall notify the commission upon its  
33 completion of providing initial outage reporting. The commission,  
34 in consultation with the Office of Emergency Services, shall  
35 determine what information, if any, that is required to be contained  
36 in the initial outage report is, or may be made, public consistent  
37 with Section 583 and the confidentiality requirements adopted by  
38 the Federal Communications Commission in order to protect  
39 homeland security (Section 4.2 of Part 4 of Subchapter A of  
40 Chapter 1 of Title 47 of the Code of Federal Regulations).

1 ~~(f) The commission, in consultation with the Office of~~  
2 ~~Emergency Services, shall require all facilities-based providers of~~  
3 ~~telecommunications services that the Federal Communications~~  
4 ~~Commission requires to provide access to 911 service to provide~~  
5 ~~final outage reporting whenever there is a major rural outage. Final~~  
6 ~~outage reporting shall be provided within 20 days to the~~  
7 ~~commission and the Office of Emergency Services. The final~~  
8 ~~outage report shall, at a minimum, include the unique report code~~  
9 ~~provided pursuant to subdivision (c), a detailed description of the~~  
10 ~~direct cause and any root cause of the outage, the provider's actions~~  
11 ~~to restore service, and any measures undertaken to prevent the~~  
12 ~~occurrence of a similar outage in the future. The commission, in~~  
13 ~~consultation with the Office of Emergency Services, shall~~  
14 ~~determine what information, if any, that is required to be contained~~  
15 ~~in the final outage report is, or may be made, public consistent~~  
16 ~~with Section 583 and the confidentiality requirements adopted by~~  
17 ~~the Federal Communications Commission in order to protect~~  
18 ~~homeland security (Section 4.2 of Part 4 of Subchapter A of~~  
19 ~~Chapter 1 of Title 47 of the Code of Federal Regulations). A~~  
20 ~~written summary of the outage report, containing that information~~  
21 ~~the commission determines may be safely disclosed, shall be~~  
22 ~~supplied to the board of supervisors of each county affected by~~  
23 ~~the outage within 30 days of the major rural outage.~~

24 ~~(g) The commission, in consultation with the Office of~~  
25 ~~Emergency Services and, to the extent feasible, with rural~~  
26 ~~emergency responders, may adopt rules to implement and refine~~  
27 ~~the notification and reporting requirements of this section.~~

28 ~~(h) The requirements of this section are enforceable pursuant~~  
29 ~~to Chapter 11 (commencing with Section 2100) of Part 1.~~

30 ~~SEC. 5. Section 2889.8 of the Public Utilities Code is amended~~  
31 ~~and renumbered to read:~~

32 ~~2882. The commission periodically shall assess the reliability~~  
33 ~~of the public telecommunications network and, if necessary,~~  
34 ~~develop recommendations for improvement. The assessment shall~~  
35 ~~include, but not be limited to, all of the following:~~

36 ~~(a) An analysis of those factors that pose a risk to network~~  
37 ~~reliability, including the adequacy of independent sources of~~  
38 ~~reserve power.~~

39 ~~(b) Consideration as to whether development of reliability~~  
40 ~~standards is appropriate.~~

1     ~~(e) Consideration as to whether procedures should be developed~~  
2     ~~to notify customers about accessing other telecommunications~~  
3     ~~companies in the event of a service disruption.~~

4     ~~SEC. 6. No reimbursement is required by this act pursuant to~~  
5     ~~Section 6 of Article XIII B of the California Constitution because~~  
6     ~~the only costs that may be incurred by a local agency or school~~  
7     ~~district will be incurred because this act creates a new crime or~~  
8     ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
9     ~~for a crime or infraction, within the meaning of Section 17556 of~~  
10    ~~the Government Code, or changes the definition of a crime within~~  
11    ~~the meaning of Section 6 of Article XIII B of the California~~  
12    ~~Constitution.~~